

**REMARKS**

With the foregoing amendment claims 1-34 are pending in the application. Claims 1, 12, 16, 18, 27, and 29 are independent. No new matter has been added by the amendments. Applicant(s) respectfully request(s) reconsideration of the Rejections/Objections, which are discussed below.

**Rejection of Claim 29 under 35 U.S.C. §112**

Claim 29 has been amended to overcome the rejection. It is respectfully submitted that claim 29, as amended, is not indefinite.

**Rejections of Claim 1-30 under 35 U.S.C. §102**

Claims 1-30 stand rejected under 35 U.S.C. 102(e) as being anticipated by Leeke et al. (US 6,587,127) (hereafter "Leeke"). Applicant respectfully disagrees.

**Independent Claim 1**

With respect to independent claim 1, Leeke does not anticipate claim 1 because Leeke does not disclose all of the features of claim 1. For example, at the least, Leeke does not disclose "modifying at least one of the one or more audio channel profiles in response to receiving the indication that the user likes the received broadcast sound recording," as is recited in claim 1.

The Office contends that Leeke discloses this feature. In support of its contention, the Office cites to the following portion of Leeke:

A plurality of ratings generated over time are recorded by the client apparatus 104 and/or the server 102. The time sequence of the plurality of ratings can be formed by repeatedly sampling the rating for either equal or unequal time intervals.

When the end user has formulated an overall rating or a score for the item as a whole, he/she points to and clicks on a particular rating option. An

indication of the overall rating is recorded and displayed. Preferably, the overall rating is displayed within the icon 1352 associated with the track. The title 1350 and the icon 1352 for rated tracks are displayed in a second color which differs from a first color used to display titles and icons for unrated tracks. *Col. 35, line 60 to col. 36, line 5.*

The above portion of Leeke merely discloses that “[a]n indication of the particular rating is recorded.” Nowhere in the above portion of Leeke does Leeke disclose “modifying ... [an] audio channel profile ....” Recording an indication of a particular rating is not the same thing as “modifying ... [an] audio channel profile in response to receiving [an] indication that the user likes ... [a] sound recording” because one need not modify an audio channel profile when one records an indication of a particular rating. That is, one may record an indication of a particular rating without performing the claimed step of “modifying [an] ... audio channel profile ....” Accordingly, for at least this reason, Leeke does not disclose all of the elements of claim 1.

#### Dependent Claim 2

With respect to dependent claim 2, Leeke does not anticipate claim 2 because Leeke does not disclose all of the features of claim 2. For example, at the least, Leeke does not disclose that “said ... profile includes a set of one or more sound recording identifiers,” let alone that the step of modifying the profile comprises the step of “adding a sound recording identifier that identifies the received broadcast sound recording to said set of sound recording identifiers included in the ... profile,” as is required by claim 2.

The Office contends that Leeke discloses these features. In support of its contention, the Office cites to the following portion of Leeke:

As described earlier, the graphical radio dial can include a plurality of marks associated with a plurality of audio content having at least one attribute. For broadcasts, the at least one attribute includes at least two of a category attribute, a band attribute, and a location attribute. The band

attribute can indicate one of an AM band, an FM band, and an Internet band for broadcasts. Optionally, a step (block 1204) of receiving a user-initiated selection of a preset associated with the at least one attribute is performed.

The plurality of marks includes a first mark associated with the first audio content. In this case, the step of receiving the user-initiated selection of the first audio content can comprise steps of receiving the at least one attribute, determining the plurality of audio content based upon the at least one attribute, and receiving a user-initiated selection of the first mark.

*Col. 30, line 62 to Col. 31, line 10.*

The above cited portion of Leeke simply does not disclose that “said ... profile includes a set of one or more sound recording identifiers,” let alone that the step of modifying the profile comprises the step of “adding a sound recording identifier that identifies the received broadcast sound recording to said set of sound recording identifiers included in the ... profile,” as is required by claim 2. Accordingly, Leeke does not anticipate claim 2.

### Dependent Claim 3

With respect to dependent claim 3, Leeke does not anticipate claim 3 because Leeke does not disclose all of the features of claim 3. For example, at the least, Leeke does not disclose that “said ... profile includes a set of one or more artist identifiers,” let alone disclose that the step of modifying the profile comprises the step of “adding an artist identifier that identifies the artist that recorded the received broadcast sound recording to said set of artist identifiers included in the ... profile,” as is required by claim 3.

The Office contends that Leeke discloses these features. In support of its contention, the Office cites to the following portion of Leeke:

FIG. 16 is an illustration of an example of a portion of the interface displayed

upon receiving a user-initiated selection of the library category control 246. ...

The graphical user interface provides multiple ways to navigate to content in the library category. A first way includes using the selection attribute indicators 214 to select content having chosen attributes. ...

The category attribute field 262 allows the end user to limit the library content to at least one particular category or format of spoken audio. ...

The author attribute field 264 allows the end user to specify an author of the content. Work that is absent of an author (such as non-book material) can have a lead person in the work listed as an author. Upon selecting the author attribute field 264, a list of authors having content limited to the category specified in the category attribute field 262 is displayed. The end user can select an author from the list. *Col. 17, line 66 to col. 18, line 32.*

The portion cited by the examiner merely describes the user interface component shown in FIG. 16 of Leeke. The portion cited by the examiner simply does not disclose an audio channel profile that “includes a set of one or more artist identifiers,” let alone disclose that the step of modifying the profile comprises the step of “adding an artist identifier that identifies the artist that recorded the received broadcast sound recording to said set of artist identifiers included in the ... profile,” as is required by claim 3. Accordingly, Leeke does not anticipate claim 3.

#### Dependent Claim 4

Claim 4 depends from claim 1. Thus, claim 4 is patentable over Leeke for at least the same reasons given above with respect to claim 1.

#### Dependent Claim 5

With respect to dependent claim 5, Leeke does not anticipate claim 5 because Leeke does not disclose all of the features of claim 5. For example, at the least, Leeke does not

disclose the step of “enabling the user to select at least one of the audio channel profiles in response to receiving the indication,” let alone disclose that the step of modifying a profile comprises the step of “modifying the selected profile or profiles,” as is required by claim 5.

The Office contends that Leeke discloses these features. In support of its contention, the Office cites to the following portion of Leeke:

The category attribute field 262 allows the end user to limit the events to at least one particular category or format.  
*Col. 15, lines 57-58,*  
... selecting (at server 102) second content 1710 based upon a first user profile (preferably located at the server 102 ... *Col. 48, lines 64-66.*

It is self evident that this portion of Leeke does not disclose the features of claim 5. The above portion merely discloses that a user can select a category attribute. A category attribute is not an audio channel profile. An audio channel profile may contain a category attribute, but that does not mean that a category attribute is an audio channel profile. Further, even if the “category attribute” is a profile, Leeke does not disclose modifying the category attribute in response to receiving an indication that the user likes a received broadcast sound recording, as is further required by claim 5. Accordingly, the rejection of claim 5 should be withdrawn.

#### Dependent Claim 6

Claim 6 depends from claim 1. Thus, claim 6 is patentable over Leeke for at least the same reasons given above with respect to claim 1.

#### Dependent Claim 7

With respect to dependent claim 7, Leeke does not anticipate claim 7 because Leeke does not disclose all of the features of claim 7. For example, at the least, Leeke does not disclose the step of “selecting one or more of the audio channel profiles based on the received information concerning the received broadcast sound recording,” let alone disclose

that the step of modifying a profile comprises the step of “modifying at least one of the selected profiles,” as is required by claim 7.

The Office contends that Leeke discloses these features. In support of its contention, the Office cites to the following portion of Leeke:

... (ii) selecting (at server 102) second content 1710 based upon a first user profile (preferably located at the server 102) and (iii) communicating a first signal to the first user location. *Col. 48, lines 65-67.*

It is self evident that this portion of Leeke does not disclose the features of claim 7. The above portion of Leeke merely discloses selecting content based on a profile. It does not disclose selecting a profile based on information concerning content (e.g., a received broadcast sound recording), as is required by claim 7. Accordingly, the rejection of claim 7 should be withdrawn.

#### Dependent Claim 8

Claim 8 depends from claim 1. Thus, claim 8 is patentable over Leeke for at least the same reasons given above with respect to claim 1.

#### Dependent Claim 9

Claim 9 depends from claim 1. Thus, claim 9 is patentable over Leeke for at least the same reasons given above with respect to claim 1.

#### Dependent Claim 10

Claim 10 depends from claim 1. Thus, claim 10 is patentable over Leeke for at least the same reasons given above with respect to claim 1.

#### Dependent Claim 11

With respect to dependent claim 11, Leeke does not anticipate claim 11 because Leeke does not disclose all of the features of claim 11. For example, at the least, Leeke does

not disclose the step of “copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain the copy,” as is required by claim 11.

The Office contends that Leeke discloses this feature. In support of its contention, the Office cites to the following portion of Leeke:

A playlist smart card is a custom card for an individual. The playlist smart card is a collection and organization device for content available via the electronic network 100. The playlist smart card can be used to collect music, library content, events, or radio programming using personalized icons, event schedules, and playlists. Access to some content may be secured using the playlist smart card via a purchase. The playlist smart card can be traded, downloaded, sold, and/or bartered between two individuals. *Col. 23, lines 61-66.*

This portion of Leeke simply does not disclose “copying [a] sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain the copy,” as is required by claim 11. The above portion of Leeke merely describes a playlist smart card. The rejection of claim 11 should be withdrawn.

#### Independent Claim 12

Like claim 1, claim 12 requires the step of “modifying ... [a] profile[] in response to the user indicating that the user likes or does not like the broadcast sound recording,” Accordingly, for the reason give above with respect to claim 1, claim 12 is patentable over Leeke.

Furthermore, claim 12 also requires “providing two or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played for the personalized audio channel associated with the profile; [and] receiving from the user an indication that the user desires to listen to a selected one of the two or more personalized audio channels ...;” these features are not disclosed in Leeke.

The Office contends, however, that Leeke discloses the step of “receiving from the user an indication that the user desires to listen to a selected ... personalized audio channel.” This contention lacks merit. In support of its contention, the Office cites to the following portion of Leeke:

The end user selects either a title from the list or its associated icon to commence a rating process for an associated track. In response to receiving a user-initiated selection of a title or an icon, at least a portion of the associated track is communicated to the client apparatus 106. Although an entire portion of the associated track can be communicated, it is preferred that a limited-duration sample of the associated track be communicated. For example, the limited-duration sample can be comprised of a 30-second clip of the associated track. *Col. 35, lines 6-15 (emphasis added).*

It is clear that the above portion of Leeke merely discloses that the user selects a title or an icon associated with the title, wherein the title identifies a single track. In contrast, claim 12 requires that the user select a personalized audio channel. Selecting a title is not the same as selecting a personalized audio channel. Selecting a personalized audio channel causes the system to transmit to the user sound recordings that match the profile associated with the channel. In contrast, selecting a title merely causes the system to transmit the single track that is associated with the title. Accordingly, for this additional reason, Leeke does not disclose all of the steps of claim 12.

#### Dependent Claims 13-14

Claims 13-14 depend from claim 12. Thus, claims 13-14 are patentable over Leeke for at least the same reasons given above with respect to claim 12.

#### Dependent Claim 15

Like claim 11, claim 15 requires the step of “copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain the



copy.” Accordingly claim 15 is patentable over Leeke for the reason give above with respect to claim 11.

Independent Claim 16

Like claim 1, claim 16 requires the step of “modifying at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording,” Accordingly, for the reason give above with respect to claim 1, claim 16 is patentable over Leeke.

Furthermore, claim 16 also requires “using ... information in one of the profiles to create a playlist, wherein the playlist specifies a set of sound recordings ... [and] selecting, in response to [receiving an indication that the user desires to listen to the audio channel associated with the profile used to create the playlist], a sound recording specified in the playlist;” these features are not disclosed in Leeke.

The Office contends, however, that Leeke discloses these features. This contention lacks merit. In support of its contention that Leeke discloses “using ... information in one of the profiles to create a playlist,” the Office cites to the following portion of Leeke:

The categorical selection controls 200 are designated to receive user-initiated actions to choose a content category within which audio content can be selected. The categorical selection controls 200 include a radio category control 244, an events category control 245, a library category control 246, and a music category control 247. Each of the categorical selection controls 200 is displayed as a graphical tab.

The radio category includes content available from over-the-air broadcasts (including but not limited to AM and FM broadcasts) and Internet broadcast material encoded and distributed through the electronic network 100. The events category includes content from special occurrences, conventions, announcements, news, and sports events, for example, distributed by a scheduler or an event manager. The events category includes scheduled broadcasts of either live or

archived material that is made available over the electronic network 100 at a scheduled time. The library category includes content from stored audio of books, archived speeches, spoken audio, and other content that appears without reference to a particular broadcast. The music category includes collections of music such as albums and other audio releases. *Col. 7, line 63 to col. 8, line 17.*

The above quoted portion of Leeke does not mention creating a playlist, let alone “using ... information in one of the profiles to create [the] playlist,” as is required by claim 16. Accordingly, for this additional reason the rejection of claim 16 should be withdrawn.

In support of its contention that Leeke discloses “selecting, in response to [receiving an indication that the user desires to listen to the audio channel associated with the profile used to create the playlist], a sound recording specified in the playlist,” the Office cites to the following portion of Leeke:

During playback, the play button 250 is designated to receive a user-initiated action to pause the playback of the audio selection. Once paused, the play button 250 can receive a subsequent user-initiated action to continue the playback.  
*Col. 8, lines 61-65.*

The above quoted portion of Leeke does not mention selecting a sound recording specified in a playlist, let alone selecting a sound recording specified in a playlist “in response to [receiving an indication that the user desires to listen to the audio channel associated with the profile used to create the playlist],” as is required by claim 16. Accordingly, for yet these additional reasons the rejection of claim 16 should be withdrawn.

Dependent Claim 17

Claim 17 depends from claim 16 and is thus patentable for the reasons stated above.

Independent Claim 18

Claim 18 is similar to claim 1. Thus, the above remarks for claim 1 apply to claim 18.

Dependent claims 19-26

Claims 19-26 depend from claim 18 and are patentable for at least the same reasons as claim 18.

Independent Claim 27

Claim 27 is similar to claim 12. Thus, the above remarks for claim 12 apply to claim 27.

Dependent Claim 28

Claim 28 depends from claim 27 and is patentable for at least the same reasons as claim 27.

Independent Claim 29

Claim 29 is similar to claim 16. Thus, the above remarks for claim 16 apply to claim 29.

Dependent Claim 30

Claim 30 depends from claim 29 and is patentable for at least the same reasons as claim 29.

New Claims 31-34

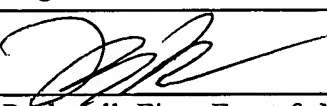
New claim 31-34 depend from claim 1. Thus, these claims are patentable for at least the same reasons give above with respect to claim 1. Additionally, each of claims 31-34 recite features not disclosed in Leeke.

**CONCLUSION**

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections, and that they be

withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

| <b>RESPECTFULLY SUBMITTED,</b>  |   |                  |              |                     |              |
|---------------------------------|---|------------------|--------------|---------------------|--------------|
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